

WATER COUNCIL MEETING

NH Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

April 11, 2012
8:00 a.m.

Members present: Chairman Gilbert, Councilors Butler, Gosse, Hinds, Hoyt, and Rawnsley

Members absent: Councilors Henderson, Lyons, Rastallis and Varotsis

Chairman Gilbert called the meeting to order at 8:05 a.m.

1. Approval of Minutes of March 14, 2012 Meeting

- ***Motion made by Councilor Butler to approve the minutes, second by Councilor Rawnsley. Motion passed unanimously.***

2. Status of Appeals

Appeals Clerk, Paula Scott, presented an update on the following appeals:

I. New Appeals

Docket No. 12-05 WC – Fillmore Industries, Inc.

RE: Feb. 14, 2012 Administrative Order No. 12-005 WD

Presiding Officer: Not Assigned

Status: Appeal was filed on Mar. 15, 2012. Receipt of Appeal letter was issued on 3/15/12. Council to accept or decline appeal today. Discussion was held.

- ***Councilor Rawnsley made a motion to accept the appeal, second by Councilor Butler. Motion passed unanimously.***

II. Decision and Orders that need to be written finalized and issued.

Docket Nos. 08-57 & 08-59 WC - Eric W. Waleryszak, Brian T. and Adela J. Griset Appeal

RE: Notice and Decision on the Determination of Lake Level issued by DES on 9/29/08

Presiding Officer: Christopher Rawnsley

Status: Hearing was scheduled for December 14, 2011 at 10 a.m. Dec. 2, 2011 received DES' amended Exhibit and Exhibit List and also received Assented-to Motion for Late Entry and Appellant's Witness and Exhibit List and the Exhibits. Council verbally Granted Motion for Late Entry. Hearing was continued to January 11, 2012. Council adopted decision on Notice of Appeals and issued it on March 14, 2012.

III. Hearings or PHCs Pending

Docket No. 11-08 WC David Riley, et al.

Re: Lake Waukewan Final Operating Level

Presiding Officer: David Conley assigned on 1/19/12

Recused: Carol Henderson

Status: Hearing scheduled for February 8, 2012 at 9 a.m. per Pre-Hearing Order (PHO). Nov. 16, 2011 received Assented-to Motion for a Continuance. Decision for 8 Petitioners to Intervene and decision on Motion for Continuance were issued on Nov. 28, 2011. New

Hearing date was April 11, 2012 at 9 a.m., notice given in Decision dated Nov. 28, 2011. January 25, 2012 received a Fully Assented-To Motion for Interim Deadline Extension. Feb. 16, 2012 received Appellants' expert Disclosure. Motion for Interim Deadline Extension was granted & issued on Feb. 17, 2012. Mar. 9, 2012 received withdrawal of 2 interveners (Brian & Pamela Langille). Mar. 19, 2012 Appellant, DES and Intervenors filed Witness and Exhibit Lists. Mar. 30, 2012 received Partial Objection to Intervenors' Witness and Exhibit List. Apr. 6, 2012 issued order granting Objection. Hearing is today, April 11, 2012.

Docket No. 12-01 WC – David Sundman, et al. Appeal

Re: 12/19/11 Alteration of Terrain Permit No. AoT-0353 for Dalton Valley Drag

Hearing Officer: David Conley assigned on 2/9/12

Status: Received appeal that appears to be timely on January 18, 2012. Issued receipt of appeal letter on January 20, 2012. Council accepted the appeal Feb. 8, 2012, notice was issued Feb. 9, 2012. Feb. 21, 2012 received Appellant's first request for information from applicant. Pre-Hearing Conference (PHC) is scheduled for Apr. 16, 2012 at 1 p.m., notice sent 3/13/12. Mar. 20, 2012 received Motion to Continue PHC. Mar. 26, 2012, Motion was granted. Rescheduled PHC for May 2, 2012 at 9 a.m., notice given Mar. 27, 2012.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

Docket No. 09-05 WC - North Country Alliance for Balanced Change (Dalton Valley Drag)

RE: 12/12/08 Alteration of Terrain Permit WPS 8289 for Dalton Valley Drag

Presiding Officer: Christopher Rawnsley

Status: PO issued Order on Request to Continue Stay on 10/7/11. The Stay is in effect until at least 30 days after NHDES has rendered a final decision on Alteration of Terrain Permit Application AoT 110809-097. Dec. 19, 2011, received email from Bureau that a new AoT permit #0353 was issued to Dalton Concrete, LLC. Status request for this appeal was sent 2/14/12 to the appellant. 2/21/12 received reply to status request from appellant. A status request was sent to the permittee on 2/27/12, with no response received yet. The Council will request Atty. Conley be assigned the hearings officer and set a PHC.

- ***Councilor Gosse made a motion to consolidate this appeal with Docket No. 12-01 WC – David Sundman, et al. Appeal, second by Councilor Hinds. Motion passed unanimously.***

Docket No. 11-05 WC – Town of Hooksett and Hooksett Sewer Commission

RE: 3/21/11 Administrative Order, Administrative Order No. 11-010 WD

Presiding Officer: Not Assigned

Recused: Christopher Rawnsley

Status: On May 11, 2011 the Council voted unanimously to accept appeal. The Town and DES continue to be engaged in discussion to resolve this matter. Both the Town and DES request that the Council continue to delay taking action on the Notice of Appeal.

FYI

Docket No. 07-17 WC Ross Realty Trust and Tippee Canoe Campground

Re: 07-17-07 Administrative Order No. 07-024 WD

Presiding Officer:

Status: Appeal received 8/15/07. At Sept. 12, 2007 meeting Council denies the request for hearing. No record of that denial ever being issued. According to the DES Program, the AO

has been released and the work done. There is a question about this appeal as to whether it was withdrawn when they appealed to the Wetlands Council. On Sept. 14, 2011 the Dept. of Environmental Services issued Notice of Closure and Release of Recordation for AO #07-024. Chairman Gilbert to issue order formally dismissing the appeal.

3. Other Business

Chairman Gilbert

Water Sustainability Commission Update – they are starting to narrow down the key recommendations that the Commission will be making. Planning, regulation and enforcement will be recommended to be on a watershed basis. Other recommendations: infrastructure funding, updating design standards, addressing stormwater infrastructure-which is 84% of water quality. Want to have more consistent management of development.

4. Legislative Update

Director Stewart

The DES 2012 Session Bills of Interest was distributed by Director Stewart. Pages 6 – 9 are all bills that have been sent to interim study or are ITL. Senate received approximately 300 bills from the House to deal with. He then reviewed bills of interest that are still being worked on.

5. Next Meeting

May 9, 2012 at 9 a.m.

6. Adjournment

- ***Councilor Rawnsley made a motion to adjourn, second by Councilor Butler. Motion passed unanimously.***

Meeting was adjourned at 8:30 a.m.